

TENNESSEE BOARD OF FUNERAL DIRECTOR AND EMBALMERS

MINUTES OF BOARD MEETING

DECEMBER 12, 2006

President Danny Cook called the meeting to order at 10:10 A.M. in Conference Room 160, Davy Crockett Tower, Nashville, Tennessee.

Board members present were Danny Cook, President, Ralph Buckner, Vice President, Bob Foster, Wendy Hellum, David Murphy, Stephen Murphy and Nancy Vincent.

Staff members present were Robert Gribble, Executive Director, Adrian Chick, Staff Attorney, and Sandra Cooper and Jimmy Gossett, Administrative Assistants.

APPROVAL OF MINUTES:

A motion was made by Mr. Steve Murphy to approve the minutes of the November 14, 2006 Board Meeting.

Seconded by Mr. Buckner

Adopted by voice vote

APPROVAL OF FUNERAL DIRECTOR AND/OR EMBALMER LICENSES:

Upon motion, based upon the application records, the following applicants were approved for licensure.

**Diana Marie Christian
McMinnville, TN**

Funeral Director

**Charles Timothy Raley
Nashville, TN**

Funeral Director

**Thomas J. Stafford, IV
Maryville, TN**

Funeral Director

**Patty Jo Clouse
Manchester, TN**

Funeral Director & Embalmer

**Teresa Johnson Hatten
Nashville, TN**

Funeral Director & Embalmer

**Preston Tyrone Jefferson, II
Munford, TN**

Funeral Director & Embalmer

**Jane Melissa Merrill
Oak Grove, KY**

Funeral Director & Embalmer

**Heather Renea Sharpe
Nashville, TN**

Funeral Director & Embalmer

**Hilton Dewayne Tucker
Madison, TN**

**Funeral Director
Reciprocity – Alabama**

**Peter F. Burrage
Riverview, FL**

**Embalmer
Reciprocity – Florida**

**January Gene Phillips
Knoxville, TN**

**Funeral Director & Embalmer
Reciprocity – Texas**

**David Bonham Veselik
Damascus, VA**

**Funeral Director & Embalmer
Reciprocity – Virginia**

APPROVAL OF ESTABLISHMENT LICENSES:

Upon motion, based upon the application records, the following establishments were approved for licensure.

**Ownership Change
Harp Funeral Home
Jellico, TN**

New Ownership: Corporation

**Ownership Change
Munford Funeral Home – Munford Chapel
Munford, TN**

New Ownership: LLC

**Ownership Change
Munford Funeral Home – Millington Chapel
Millington, TN**

New Ownership: LLC

**Name Change
Johnson-Williams Funeral Home
Newbern, TN**

Ownership: Corporation

**LEGAL REPORT:
ADRIAN CHICK, STAFF ATTORNEY**

1. Case No.: L06-FUN-RBS-2006039481

An inspection revealed that the establishment's license expired on June 30, 2006. The license has not been renewed. The inspector obtained Statements of Funeral Goods and Services for sixteen (16) services. This documentation establishes that all sixteen (16) services were conducted while the establishment's license was expired.

The owner / manager provided a response stating that he was unaware that his funeral director license had expired. The response did not address expiration of the establishment license or the conducting of sixteen (16) services while the establishment's license was expired.

Complaint History: Numerous

Recommendation: Consent Order assessing \$100 civil penalty for each service conducted without a valid establishment license (total civil penalty of \$1,600.00) and authorization for a hearing.

A motion was made by Mr. Buckner to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

2. Case No.: L06-FUN-RBS-2006039491

An inspection revealed that the Respondent's funeral director license expired on June 30, 2006. The license has not been renewed. The inspector obtained Statements of Funeral Goods and Services for sixteen (16) services. This documentation establishes that all sixteen (16) services were conducted while the Respondent's funeral director license was expired. Each Statement of Funeral Goods and Services Selected is signed by the Respondent as manager.

The Respondent stated that he was unaware his funeral director license was expired.

Complaint History: Numerous

Recommendation: Consent Order assessing \$100 civil penalty for each service conducted without a valid funeral director license (total civil penalty of \$1,600.00) and authorization for a hearing.

A motion was made by Mr. Buckner to accept Counsel's recommendation.

Seconded by David Murphy

Adopted by voice vote

3. Case No.: L06-FUN-RBS-2006036891

The license of the funeral director listed with the Board as the manager of Respondent funeral establishment expired on June 30, 2006. The Board notified this funeral director by letter dated July 21, 2006 that the funeral director license had expired and that the renewal fee plus late fee must be received within sixty (60) days of the expiration date. The letter further advised the funeral director that after the sixty (60) days, the funeral director would have to re-apply. The funeral director mailed payment of the two hundred seventy-five dollar (\$275) renewal fee and the two hundred dollar (\$200) late fee on August 31, 2006 (sixty-two days after expiration). The payments were received by the Board on September 7, 2006 (sixty-nine days after expiration). The establishment provided a response thirty-one (31) days after the Board's second request for a response. The response, signed by the funeral director in question, included post-office receipts that show the dates listed above and asserts that the payments were sent in a timely manner.

Complaint History: 200601013 – Still open; 200601644 – Dismissed; 200602057 – Dismissed; 200603469 – Still open.

Recommendation: Consent Order assessing civil penalty of \$500 and authorization for hearing.

A motion was made by Mr. Buckner to accept Counsel's recommendation.

Seconded by Mr. Foster

Ms. Hellum voted no

Adopted by voice vote

4. Case No.: L06-FUN-RBS-2006032581

The Respondent funeral director submitted an application for renewal which included the response "N/A" to the question inquiring about criminal convictions. The application was approved and the renewed license was mailed to the Respondent. After the license was returned by the post office, a staff member called and was informed that the Respondent was incarcerated.

A Response was submitted by the Respondent's father, confirming that he was incarcerated for violation of an order of protection. Legal requested a copy of the judgment relating to his incarceration on October 30, 2006 but has received no response.

Complaint History: 2005041 – Closed with Letter of Warning; 200104098 – Closed with referral

Recommendation: Authorization for hearing.

A motion was made by Mr. David Murphy to table the recommendation until the Legal Staff obtained further information.

Seconded by Mr. Buckner

Adopted by voice vote

5. Case No.: L06-FUN-RBS-2006042091

The Respondent's establishment name is listed as "xxxx xxxx Chapel" on its establishment application and license. The Respondent has been listing its name on various documents given to the public as "xxxx xxxx Funeral Chapel".

The Respondent has changed the name on all documentation to reflect the exact name listed on his application.

Complaint History: 200602490 – Closed, \$250 civil penalty paid; 200603789 – Still open.

Recommendation: Letter of Warning.

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

6. Case No.: L06-FUN-RBS-2006037891

Respondent has been using a Statement of Funeral Goods and Services that bears a name other than the name listed on its application. This document was reviewed by an inspector prior to use of the form but the discrepancy was apparently overlooked.

The Respondent has provided an updated form which reflects the establishment name identical to that listed on its application.

Complaint History: 200602490 – Closed, \$250 civil penalty paid; 2006042091 – Still open.

Recommendation: Letter of Warning.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Foster

Adopted by voice vote

7. Case No.: L06-FUN-RBS-2006037981

Respondent's establishment license expired June 30, 2006 and has not since been renewed. The Vital Statistics Section of the Department of Health has provided information verifying that Respondent has conducted thirteen (13) funerals without a valid establishment license.

No response received. Requests for responses were made on October 3, 2006 and again on October 18, 2006.

Complaint History: Numerous

Recommendation: Consent Order assessing \$100 civil penalty for each funeral conducted without a valid establishment license (total civil penalty of \$1,300.00) and authorization for a hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Adopted by voice vote

8. Case No.: L06-FUN-RBS-2006040931

Inspection revealed a casketed body without an identification tag. Inspection also revealed FTC violations, including at least one casket offered for sale that was not on the Casket Price List. Also, one casket in the selection room was priced higher than listed on the Casket Price List.

The establishment's manager responded that sometimes he forgot to put the identification tag on until he's ready to close the casket. Copies of updated price lists were provided.

Complaint History: 200504383 – \$500 civil penalty.

Recommendation: Consent Order assessing civil penalty of \$500 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

9. Case No.: L05-FUN-RBS-2006041221

Following inspection, Respondent funeral establishment received a Notice of Violation for:

- Outer Burial Container that didn't match offerings on Outer Burial Container Price List;
- Incorrect casket price listed under direct cremation;
- Casket Price List did not include all caskets being offered for sale;
- Establishment not being managed and supervised by a licensed funeral director; and
- Preparation room exhaust fan not operable

The Respondent provided updated price lists, provided the Board with the name of a new manager (plus payment of fee) and has repaired inoperable exhaust fan.

Complaint History: None

Recommendation: Consent Order assessing \$750 civil penalty and authorization for hearing

A motion was made by Mr. Foster to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Ms. Hellum voiced opposition

Adopted by voice vote

10. Case No.: L06-FUN-RBS-2006041191

Following inspection, Respondent funeral establishment received Notice of Violation for:

FTC Violations:

- Casket Price List does not match offerings;
- Immediate Burial price range does not match offerings; and
- Incorrect disclosures for Direct Cremation.

TCA 62-5-107(2)

- Establishment did not have copy of license of the crematory they use; and
- Establishment did not have copy of latest inspection report for the crematory they use.

A response was received which included corrected price lists and proper documentation for crematory used.

Complaint History: None

Recommendation: Consent Order assessing \$750 civil penalty and authorization for a formal hearing.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Steve Murphy

Ms. Hellum and Ms. Vincent voiced opposition

Adopted by voice vote

11. Case No.: L06-FUN-RBS-2006041401

An inspection was conducted on October 18, 2006. Random samples of records were examined and the following violations were noted on the Notice of Violation:

- copy of authorization not being provided to customer (per exit interview)
- identification device not attached to a dead human body prior to or at the time of placing the body in the casket

The Respondent states that the identification tag had been removed by an assistant because it showed underneath the clothing. The Respondent was unaware of the requirement that the authorizing agent be given a copy of the authorization.

Complaint history: None

Recommendation: Consent Order assessing \$500 civil penalty and authorization for hearing.

A motion was made by Ms. Vincent to reduce the civil penalty to \$250 and authorization for hearing.

Seconded by Mr. Buckner

Adopted by voice vote

12. Case No.: L06-FUN-RBS2006040201

A customer filed this complaint against the funeral director after ordering a monument for her deceased husband. The Complainant alleges that she paid for the monument on September 9, 2006, and was told that it would be received

and placed by her husband's birthday on October 10, 2006. On October 10th, it was not placed. The complainant filed this complaint on October 12, 2006 and also filed civil suit on October 17, 2006.

Respondent denies that he guaranteed the monument would be received and placed by October 10, 2006. Respondent states that he explained to the complainant initially that the delivery time was usually four to six weeks, but that he would try to expedite the order. Respondent provided receipts from FedEx showing that the order sent overnight on September 12, 2006 and also states that he discussed the matter with the manufacturer and requested the order be expedited. The monument was placed on November 14, 2006. The civil suit was dismissed on November 15, 2006.

Complaint History: None

Recommendation: Dismiss

A motion was made by Ms. Vincent to accept Counsel's recommendation.

Seconded by Ms. Hllum

Adopted by voice vote

13. Case No.: L06-FUN-RBS2006041641

An anonymous complaint provided copies of Respondent's General Price List. This GPL shows that a one hundred and twenty dollar (\$120) fee is charged for washing and disinfecting of the body even if the body is embalmed. According to FTC Rules, this fee may only be charged if the body is not embalmed.

Respondent alleges it is not in violation of the FTC rules

Complaint History: 199900693 – Dismissed

Recommendation: Letter of Caution to not include "washing and disinfecting" charge when the body is embalmed.

Mr. David Murphy recused himself.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

14. Case No.: L06-FUN-RBS2006004071

The complainant alleges that it paid for a headstone that was never delivered.

Respondent funeral director died on October 24, 2006.

Complaint History: Numerous

Recommendation: Dismiss due to death of Respondent.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Adopted by voice vote

15. Case No.: L06-FUN-RBS-2006034541

Respondent allegedly engaged in funeral directing without a valid license.

Respondent funeral director died October 24, 2006.

Complaint History: Numerous

Recommendation: Dismiss due to death of Respondent.

A motion was made by Ms. Vincent to accept Counsel's recommendation.

Seconded by Mr. David Murphy

Adopted by voice vote

16. Case No.: L06-FUN-RBS-2006037011

Complaint alleges unprofessional conduct.

Respondent died on October 24, 2006.

Complaint History: Numerous

Recommendation: Dismiss due to death of Respondent.

A motion was made by Mr. David Murphy to accept Counsel's recommendation.

Seconded by Ms. Vincent

Adopted by voice vote

17. Case No.: L06-FUN-RBS-2006041111

Inspection revealed that an authorization for cremation form was signed by an unlicensed funeral director who represented himself as a licensed funeral director. The unlicensed funeral director was employed by the Respondent and the Respondent was aware that the funeral director in question was unlicensed.

Respondent states that the authorization form was signed by the unlicensed funeral director without his knowledge.

Complaint History: None

Recommendation: Consent Order assessing civil penalty of \$500 and authorization for hearing.

A motion was made by Mr. Steve Murphy to accept Counsel's recommendation.

Seconded by Mr. Buckner

Ms. Helling voiced opposition

Adopted by voice vote

APPROVAL OF FUTURE LICENSES BY EXECUTIVE DIRECTOR:

This issue was tabled on November 14, 2006 until the next meeting to allow the Board members time to study the request.

Board President, Mr. Danny Cook, asked Ms. Meredith Sullivan, the Assistant Commissioner for Regulatory Boards of the Department of Commerce and Insurance to address the Board. Ms. Sullivan stated the state's position, her recommendation, and advantages of having the executive director approve the licensing of individuals and establishments without them personally appearing before the Board. Discussion followed by board members.

A motion was made by Mr. David Murphy to allow the Executive Director to approve routine licensure of individual applicants and establishments with the exception of those applying for a Change of Ownership.

Seconded by Ms. Vincent

Adopted by voice vote

PROPOSED FUNERAL AND PRENEED LEGISLATION:

Lauren L. Kitchell and Kristi Stout, Legislative Liaisons for the Department of Commerce and Insurance, reported on proposed legislation strengthening the preneed, funeral director, embalmer and apprentice statutes.

**ADMINISTRATIVE MATTERS:
ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

Closed Establishment

There has been one establishment reported as being closed since the last board meeting:

Nave Funeral Home, 304 East Main Street, Lebanon, TN

Disciplinary Action Report

The Board has previously authorized these consent orders and civil penalties. The Consent Orders have been signed and the civil penalties paid by the respondents. The Executive Director requests the Board's acceptance of the following consent orders.

Complaint No. 2005043291

Violation: Failure to include itemized pricing in an advertisement

Action: \$375 Civil Penalty

Complaint No. 2006034871

Violation: Failure to provide purchaser a statement at conclusion of arrangements, discrepancies on GPL, and failure to maintain a copy of current license and last inspection report for crematory that the funeral home uses

Action: \$500 Civil Penalty

Complaint No. 2006034521

Violation: Incomplete disclosure information on cremation authorization, failure to maintain cremation authorization, failure to maintain a copy of current license and last inspection report for crematory that the funeral home uses and FTC price violations

Action: \$500 Civil Penalty

Complaint No. 2005044861

Violation: FTC price violations and current licenses of funeral director and embalmer not available for inspection

Action: \$750 Civil Penalty

A motion was made by Mr. Buckner to accept the Executive Director's request.

Seconded by Mr. Steve Murphy

Adopted by voice vote

Open Complaint Report

As of December 8, 2006, there were 88 open complaints.

ELECTION OF BOARD OFFICERS FOR 2007:

President: Mr. David Murphy made a motion to elect to Mr. Bob Foster as President.

Ms. Vincent seconded the motion and called for nominations to cease and for Mr. Foster to be elected by acclamation.

Board President Danny Cook called for a roll call vote on the election of the President. The recorded vote:

Ralph Buckner	No
Danny Cook	No
Robert Foster	Yes
Wendy Helling	Yes
David Murphy	Yes
Steve Murphy	Yes
Nancy Vincent	Yes

The vote being 5 to 2 in favor, Mr. Foster was elected President of the Board for 2007.

Vice President: Mr. Steve Murphy made a motion to elect Ms. Wendy Helling as Vice President of the Board for 2007.

Mr. David Murphy seconded the motion

Ms. Helling was elected by voice vote

Continuing Education Liaison: Mr. Foster made a motion to elect Mr. Steve Murphy as the Continuing Education Liaison of the Board.

Seconded by Ms. Helling

Mr. Steve Murphy elected by voice vote

ADJOURN:

A motion was made by Mr. David Murphy to adjourn.

Seconded by Ms. Vincent

Adopted by voice vote

There being no further business, the meeting was adjourned at 12:30 P.M.

Respectfully submitted,

Robert B. Gribble

Robert B. Gribble, CFSP
Executive Director